

REMEDICATION AND REDEVELOPMENT (RR) NEWS FROM WISCONSIN DNR  
May 22, 2003

JOINT FINANCE COMMITTEE ACTS ON RR PROGRAM BUDGET ITEMS

The Legislature's Joint Committee on Finance (JFC) has acted on budget proposals affecting the RR Program. JFC voted to reduce funds for spill response, emergency actions (e.g. clean bottled water) and state-financed environmental cleanups by over \$800,000. They also deleted \$6 million the governor recommended in general obligation bonding authority for state-financed cleanups. JFC also moved to extend the December 31, 2003 sunset of the vehicle impact fee to December 31, 2005, rather than eliminating the sunset as proposed by the governor. In addition, JFC would retain the current \$9 vehicle environmental impact fee (payable at vehicle title transfers) rather than approving the governor's proposed increase to \$10.50. The vehicle impact fee is one of the primary funding sources for several environmental programs in DNR and other agencies. To address this reduction, the committee made significant reductions to staff and funding in DNR's Air and Waste Division, including the RR Program. Preliminary analysis shows this will mean a loss of at least 9.25 full time employees (FTEs) in the RR Program, in addition to the 7 FTE reduction already planned by the governor. Together, these reductions would represent a 22% reduction in state-funded staff in the RR Program. In addition to these cuts, JFC approved moving approximately \$1.3 million from the state Environmental Fund to the Agricultural Chemical Cleanup Fund. DNR is still evaluating the impacts of this final reduction on state-financed environmental cleanups, partnering on brownfield cleanups, and staffing.

In other action, JFC rejected the governor's proposal to consolidate all brownfield grant programs into one program at DNR. Instead, the committee maintained existing brownfield grants in Commerce (\$7 million annually) and DNR (annual Site Assessment Grants at \$1.7 million and Green Space and Public Facilities at \$500,000). JFC would allow DNR to award Green Space and Public Facilities grants for applications received in January 2003 using funds provided in the 2003-05 biennium, and would allow Commerce to award brownfield grants for applications received in October of 2002 from fiscal year 2003-05 funding. DNR is still reviewing all these actions and their implications and will provide more information as it becomes available. After JFC completes its budget work, the budget moves to the full Legislature for action, and then to the governor before it becomes law. Changes may be made at either step.

REVISED DRY CLEANER RULE BECOMES EFFECTIVE JUNE 1

Revisions to chapter NR 169, the Dry Cleaner Environmental Response Program, will become effective on June 1, 2003. The rule has been updated to conform to statutory changes and to update the consultant selection and bidding processes. The Dry Cleaner Environmental Response Program is a reimbursement program for dry cleaners for costs associated with the investigation and clean up of contamination caused by dry cleaning solvents. A license fee for dry cleaners and a fee on the sale of dry cleaning solvents provide the reimbursement funds. Our fact sheet "Chapter NR 169 Rule Revisions" outlines the major differences in the updated rule and can be found on our web pages at - <http://www.dnr.state.wi.us/org/aw/rr/archives/pubs/RR698.pdf>. The new rule language, as well as a marked up copy of the rule showing the

changes from the previous rule language, can be found on our Dry Cleaner web pages at <http://prodwbex00/org/aw/rr/financial/dryclean.html>. If you have any questions, please contact Robin Schmidt at [Robin.Schmidt@dnr.state.wi.us](mailto:Robin.Schmidt@dnr.state.wi.us), or at 608-267-7569.

#### EPA PROMULGATES SUPERFUND "ALL APPROPRIATE INQUIRY" RULE

Early in 2002 the President signed into law the Small Business Liability Relief and Brownfields Revitalization Act, creating new federal liability limits and financial resources for brownfields. The revisions include changes to CERCLA section 101(35), creating new Superfund liability limitations for bona fide prospective purchasers and contiguous property owners, and clarifying actions that landowners must take to qualify for the innocent landowner defense. The liability exemption for bona fide prospective purchasers allows purchase of property and protection from CERCLA liability even if the site is contaminated. To qualify, the new owner must provide access to the property, exercise appropriate care, and satisfy other requirements.

One of the requirements for these liability protections is that parties undertake "all appropriate inquiry" into prior ownership and use of certain property. EPA has now promulgated a rule to clarify the provisions included in section 223 of the law. 40 CFR (code of federal regulations) Part 12 will become effective June 9, 2003. This federal code clarifies that, in the case of property purchased on or after May 31, 1997, requirements for conducting "all appropriate inquiry" to qualify as a bona fide prospective purchaser and to establish an innocent landowner defense under CERCLA can be satisfied through the use of ASTM Standard E1527-00, "Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process." In addition, recipients of federal brownfields site assessment grants will be in compliance with all appropriate inquiry requirements if they comply with either the ASTM Standard E1527-97, or the ASTM E1527-00 Standard. This rule addresses interim standards for "all appropriate inquiry". EPA is using a negotiated rule-making process to establish permanent standards, which must be in place by January 2004. For more information about this code, please visit <http://www.epa.gov/fedreg/EPA-WASTE/2003/May/Day-09/f11473.htm> For more information about ASTM standards, please visit <http://www.cssinfo.com/info/astm.html>.

#### HAPPY ANNIVERSARY TO THE SPILL LAW

Wednesday, May 21 marked the 25th anniversary of s. 292.11, Wis. Stats., the "Spill Law". This law helps Wisconsin communities and state agencies prepare for spills, and protects residents from spills of all kinds of hazardous substances. DNR began to realize the need for such a law after a 1974 train derailment in Walworth County contaminated the groundwater. Today we are much better prepared - DNR has spill coordinators in each of our five regional offices that work closely local fire-fighters and hazardous materials teams on approximately 1200 spills per year. Amendments to the Spill Law in 1994 allow local governments to work with private parties to clean up contaminated brownfields that have sat idle for decades. These amendments allow local governments to take control of property contaminated by others without incurring the cleanup responsibility. They can then check out the environmental problem, reduce the uncertainty about cleanup costs, and attract potential buyers to

complete the cleanup and return the property to the tax rolls. For more information about the law and the 25th anniversary, please visit <http://www.dnr.state.wi.us/org/caer/ce/news/on/index.htm#art5>. For more information about the DNR's cleanup programs, including and financial assistance and liability limitations, please visit the Remediation and Redevelopment web site at [www.dnr.state.wi.us/org/aw/rr](http://www.dnr.state.wi.us/org/aw/rr).

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